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Co-operative farms

* 280 *Q.*—SRI P. G. MANICKAM: கனம் கைத்தொழில் அமைச்சர் அவர்கள் தயவுசெய்து கீழ்க்கண்ட கேள்விகளுக்குப் பதிலளிப்பாரா—

(அ) கோயம்புத்தூர் ஜில்லா, பவானி தாலூகாவிலும், கோபிசெட்டிபாளையம் தாலூகாவிலும் ஹரிஜன விவசாயிகளைக் கொண்டு கூட்டுப் பண்ணைகள் நடத்த திட்டம் ஏதேனும் பரிசீலனையில் இருக்கிறதா ?

(ஆ) அப்படியானால், அதற்கான நடவடிக்கைகள் எப்பொழுது எடுத்துக்கொள்ளப்படும் ?

(இ) மேற்படி கூட்டுப் பண்ணைகளுக்கு எடுக்கப்போகும் நிலத்தின் விஸ்தீர்ணம் எவ்வளவு ?

THE HON. SRI R. VENKATARAMAN: (*a*) No, Sir.

(*b*) & (*c*) Does not arise.

MR. SPEAKER: Questions are over.

[*Note.*—An asterisk (*) at the commencement of a speech indicates revision by the Member.]

II.—PRIVILEGE MATTER *re* ARREST OF TWO MEMBERS OF THE HOUSE.

MR. SPEAKER: Hon. Members are aware of the matter of privilege raised by hon. Member Sri M. Kalyanasundaram about his arrest under section 151 of the Criminal Procedure Code, and by hon. Member Sri P. S. Chinnadurai about the arrest of hon. Member Sri S. B. Adityan, under section 151 of the Criminal Procedure Code. I had postponed the matter to 18th August to hear the views of the leaders of parties. To-day I propose to hear their views. While giving their views, I hope they will bear in mind the following points:—

Freedom from arrest of Members of Parliament is essentially claimed in order that Members may do service to the State. It has never been claimed that that privilege should allow Members to commit a felony or other offence and escape by privilege of Parliament. In the United Kingdom arrest in civil cases is privileged. This is because a Member of Parliament will be in the House on the business of the State and therefore he should not be removed from the House on any private and individual ground Arrests for action arising out of criminal jurisdiction are not privileged. Criminal jurisdiction is the business of the State. It involves considerations of public safety and therefore criminal jurisdiction is not covered by Parliamentary privilege. In the United Kingdom both the punitive arrest and the preventive arrests have been held to be cases falling under criminal jurisdiction, and hence no privilege is attached to the same. In India also in the Deshapande case it has been held that no privilege can be claimed for preventive arrests also.

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I would, therefore, request the leaders to enlighten me as to how the arrest under section 151 of the Criminal Procedure Code does or does not come under preventive arrest to which no privilege is attached. I may also remind I am not interested in hearing the validity of section 151 or its merits.

* SRI M. KALYANASUNDARAM : Sir, in spite of the elucidation contained in your note, I may not be deterred from making my claim. The rights and privileges of this House and its Members under Article 194 (3) of the Constitution of India are the same as the rights and privileges of the House of Commons. Sir, you were good enough to point out that there is no privilege to be claimed in regard to the arrest for the administration of criminal justice.

MR. SPEAKER : This is law and I am giving the hon. Member the law.

* SRI M. KALYANASUNDARAM : I am aware of it. Even with the help of some competent persons, I have examined this aspect also. In this connection, Sir, I would request you to kindly refer to the memorandum submitted by Sir Gilbert Campion to the Committee of Privileges in connexion with the arrest of Mr. Captain Ramsay and that will give us some light, Sir. The decision may be different. I am not relying on the decision of the Committee.

MR. SPEAKER : I am glad. I was about to read the decision of the Committee.

SRI M. KALYANASUNDARAM : But what the witness had said would have some bearing on this case. This is what Sir Gilbert Campion said :

"Civil and Criminal grounds were tacitly supposed to exhaust all possible grounds of arrest, and consequently, the arrest of a Member which was not in a civil cause must be on a criminal charge, and *vice versa*. This has never been entirely true. . ."

This is what he says. I would request the Hon. Speaker to note this :

"This has never been entirely true—a fact which has an important bearing on the question at issue, since the whole difficulty in this case arises out of the fact that preventive detention, not being a commitment on a criminal charge and having obviously nothing to do with a civil cause, falls into a debateable region between what is known to be privileged and what is certainly not privileged and must now be assigned to one or the other sphere."

The last sentence is very important and it has a bearing on this case.

Sir, Sir Gilbert Campion says that there are two kinds of grounds. One set of grounds is definitely privileged, i.e., civil grounds. The other set of grounds, that is arrest on criminal

charges, is definitely not privileged and between the two, there is an intermediate region whereby he means that each arrest has to be examined and it has to be assigned either to this sphere or that sphere. My submission is that the arrest under section 151 of the Criminal Procedure Code comes under the intermediate region. It is no doubt not definitely privileged. I would request the Hon. Speaker to listen to me. It is not definitely "not privileged", because the arrest under section 151, Criminal Procedure Code, is not a preventive detention. I have to rely on eminent authorities. I shall just now explain.

Mr. N. C. Chaterjee, who was a witness in Deshapande's case, to which you were pleased to refer, said that "there is a fundamental difference" between English laws and the laws in our country. The laws in our country were made by the Britishers for keeping their rule against the will of our people. That is the fundamental difference. So they have made certain laws, of course, which we have inherited. Now, these laws are used in the multi-party democracy against the opposition party. It is all the more necessary in this House to examine each arrest on its merits. The arrest may be justified. That is a different matter. I agree with you, Sir, when you said that there is no privilege for arrest for treason, for felony or for disturbance of peace. With regard to the disturbance of peace, Sir, I will not be privileged. If I refuse to give surety to come out on bail I cannot claim privilege. There is no bail for arrest under section 151, Criminal Procedure Code. It is a section empowering the police to take a person into custody without warrant. This is what is said, Sir, in section 151—fortunately or unfortunately both of us are not Lawyers—Section 151, Criminal Procedure Code says :

"A police officer knowing of a design to commit any cognizable offence may arrest, without orders from a Magistrate and without a warrant, the person so designing, if it appears to such officer that the commission of the offence cannot be otherwise prevented."

Though the section is bad enough, it is quite clear. Arrest should be made only if it cannot be prevented otherwise. In the commentary what is said is :

"The authority of the police officer under section 151, Criminal Procedure Code, is only a limited and exceptional power to prevent the commission of a cognizable offence by the individual concerned and is in no sense analogous to the power of preventive detention."

I request the Hon. Speaker to note this. This is not analogous to the power of preventive detention. 'The section merely authorizes the arrest by police without warrant from a Magistrate, and is not a provision of law under which a person can be detained.' This also, I would request you to note, Sir. At least in my mind,

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I am clear that this is not a preventive detention. This is not analagous to Captain Ramsay's case nor analogous to Deshpande's case. This is different from both these cases.

Coming again to the intermediate region pointed out by Sir Gilbert Campion, I would request you, Sir, to take note of the fundamental difference between the English law and the Indian law. So, it is all the more necessary for us to realise that the intermediate region, that is, the debatable region between what is privileged definitely and what is not privileged, is wider in India. Not that I want to create any new privilege and I know we cannot create any new privileges. If you examine the precedents in the history of privileges in Britain we cannot find a single case, which is anywhere near to this case, because English laws are different. There is no provision in British laws which is similar to section 151, Criminal Procedure Code. At any rate I am informed like that. That is why, Sir, I feel that this falls under the debatable region and it has to be gone through by a Committee of Privileges. 9-30 a.m.

I do not say that the privilege is absolute. I agree with you, Sir, when you pointed out those three reasons for which a member can be arrested even when the house is sitting. That is what had happened in Deshpande's case. When the Parliament was in Session he was arrested on his way to Parliament and the Committee of Privileges by a majority decide that Sri Deshpande cannot claim privilege. I thing the Hon. the Labour Minister who is sitting here was also a member of that Privilege Committee. But a person like Sri N. C. Chatterjee was of the view that it comes under privilege. That is in the case of Preventive Detention Act. That arrest was made under the Preventive Detention Act. Captain Ramsay's arrest also was made under powers of Regulation for the Defence of Realm of Britain. At least there is statutory authority for the execuitve to arrest the person and they have to supply him the grounds for which he was arrested and he has a remedy in a Court of Law. Here I am a member of this House. I was arrested just some 15 days prior to the commencement of the Session of the Assembly which is an important Session. As you are aware, some important subjects have already come up and some are yet to come. I was preparing for this Session sitting in my room in the Legislators' Hostel. Of course, I know that Legislators' Hostel is not a privileged area and police can enter into it and arrest me. They entered and arrested me without assigning reasons. When I asked for reasons, they said that they were Security Officers. They were not even in uniform. They were Security Officers. They showed me their identity. Then I accepted it and I followed them obediently. I had no other work except the service of this House. I have so many jobs. But as you are aware, Sir, I have been concentrating in the service of this House most part of my time and energy. I request you to note that point. Even to the

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detriment of my other political activities I have been devoting my time and energy to the service of this House. It is a fact which should be recognised. I was doing my legitimate work, i.e., the preparation for the current Session of this Assembly sitting in my room and the police took me into custody without assigning reasons. This is an arrest, as I have already explained, under section 151, Criminal Procedure Code. Even though the police did not inform me, I came to know of it later that I was arrested under section 151, Criminal Procedure Code, after going to the jail.

The way in which the police treated me is not very important. They have treated others much worse. So, I must thank them for treating me at least with that much consideration. I was asked to sit till 2 o'clock in the night in the Commissioner's Office and after that I was taken to a police station lock-up where the whole lock-up was stinking even for normal use. I should sympathise with the police constables who are working there. It was so stinking. It was a police station near Mount Road, I think, it is Chintadripet Police Station.

MR. SPEAKER : I am afraid what the hon. Member is saying now is not relevant to the subject.

SRI M. KALYANASUNDARAM : In France and Britain even entering a member's room while he is sleeping is considered to be very repugnant to the principles of democracy. I am not claiming such treatment here. But any way I should thank the police for not having treated me worse.

Coming to the point, my arrest is not under Preventive Detention Act or an arrest on specific criminal charges. If they had arrested me on specific criminal charges, I could have no grievance. I cannot claim privilege if they had arrested me under the Preventive Detention Act. Because Government were not satisfied with the provisions of section 151, Criminal Procedure Code, they had enacted what is known as the Preventive Detention Act. They could put anybody under detention under the Preventive Detention Act not for one day but for one week or for one month or even for one year or even for the duration of the term of the House. Under Preventive Detention Act they can put me in jail. I cannot have any grievance. That is a political matter. They have to face politically. They want to avoid that political responsibility by resorting to these, if you permit me to say so, Sir, very crooked methods by putting a member in jail under section 151, Criminal Procedure Code.

MR. SPEAKER : The hon. Member is criticising the action of the Government. It is not relevant to this discussion.

SRI M. KALYANASUNDARAM : The Executive should not resort to such methods.

MR. SPEAKER : That is not relevant to this issue.

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SRI M. KALYANASUNDARAM: This is not an arrest under Preventive Detention Act.

(THE HON. SRI K. KAMARAJ : என்ன உரிமை இருக்கிறது?) பேசுவதற்காவது சுதந்திரம் கொடுங்கள். அரசியல் சட்டத்திலேயே அந்த சுதந்திரம் கொடுக்கப்பட்டிருக்கிறது. திரு. காமராஜ நாடார் அவர்கள்தான் எப்போதும் முதல் மந்திரியாக இருப்பார் என்றால் நான் ஒன்றும் சொல்ல வேண்டிய அவசியம் இல்லை.

MR. SPEAKER: I will not allow this discussion. The hon. Member cannot go into the merits of his arrest and the motive of the Government. It is not relevant to this discussion. I request him to confine himself to the main issue. If the hon. Member starts something else, somebody will start replying to it.

SRI M. KALYANASUNDARAM: This is not an arrest under Preventive Detention Act or under specific criminal charges. If they have grounds to prevent me from committing certain offences, certainly there was a legitimate course. They could have arrested me under the Preventive Detention Act and kept me in jail. I cannot claim privilege. There are legal methods for seeking remedy or political methods for seeking remedy. But here I was put in jail for a period of 5 or 6 days under section 151, Criminal Procedure Code, against which there is no remedy. I cannot move for bail. I cannot come out, even if I give surety for Rs. 10,000 or Rs. 50,000. Even if the Hon. Speaker comes and says that he will stand surety for me, I cannot be released. So this is the provision under which I was arrested and so, I claim privilege, Sir.

I am not entering into the question whether the arrest is justified or not, whether there were grounds for my arrest or not because I am not informed of the grounds. The Hon. Speaker says that he was informed of some reasons. I do not know what they are. Erskine May says that it is the privilege of the House to know the reasons.

"In all cases in which Members of either House are arrested on criminal charges, the House must be informed of the cause for which they are detained from their service in Parliament."

So, the House has got a right to know the reasons for arresting a member. If the reasons are justifiable then there are appropriate laws under which they could have proceeded against me.

Unfortunately you have clubbed the other case also with mine, Sir. Rather I am unhappy about it.

MR. SPEAKER: He is also claiming privilege.

SRI M. KALYANASUNDARAM: Even in that case my submission is that his arrest under section 151, Criminal Procedure Code, is not proper. The arrest should have been made under

the Preventive Detention Act. Then I will have no grievance so far as I am concerned. If the other hon. Member also is arrested under the Preventive Detention Act, that will be useful even to him and the purpose can be achieved. The arrest under section 151, Criminal Procedure Code, whatever may be reasons is not at all justifiable. Apart from that, it is taking away the valuable privilege of members of this House.

Now, Sir, it is for the Hon. Speaker to consider the matter. The functions of the Speaker in these matters are . . .

MR. SPEAKER : All the while the hon. Member was asking me to consider.

SRI M. KALYANASUNDARAM : This is the place where I can bring to the notice of the Speaker what the functions of the Speaker are. In these matters it is a limited function. The Speaker has "no eyes to see, nor ears to hear" except as directed by the House. That is the golden rule for the Speakers. Whether the arrest was justified, in all details which the Speaker need not go into. Whether the matter raised concerns a question of privilege or not is the important point that the Speaker should consider at this stage. It is for the Committee of Privileges to go into the details. The function of the Speaker is limited to deciding whether the case is *prima facie* sufficiently akin to the matter of privilege to permit an immediate discussion. That is what the Speaker has to consider. That is my submission. I therefore, claim privilege and I request that the matter may be referred to the Committee of Privileges for two reasons, one for failing to notify the reasons to this House and the other for having arrested me and detained me from 13th July 1960 to 18th July 1960. I submit that the matter may be referred to the Committee of Privileges so that the Committee can investigate whether there were reasons, and whether the reasons were justifiable and even the question, as pointed out by you, Sir, whether section 151, Criminal Procedure Code can be used against the members, if it can be used, how far. So let it not be kept under suspense.

If that is the opinion of this House that even arrests under section 151 are permissible and a member cannot claim privilege, then let it say so. Let the Committee examine it and come to a decision and that would be useful for future guidance. Let there be no suspense. There is no precedent for it either in India or in the United Kingdom for a case of this kind. So, I submit that it will be very valuable if the matter is referred to the Committee of Privileges. I would also appeal to the hon. the Leader of the House not to look at it from the point of view of a lawyer or a party leader but look at it from the point of view of the privileges of the House. Even if it is referred to the Committee of Privileges, it does not automatically mean that the Committee is going to decide in my favour or against me. The Committee is free to decide what it feels about it. Therefore,

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I would appeal to the Hon. the Leader of the House to agree to refer the matter to the Committee of Privileges where we can sit together and consider all aspects of the matter.

MR. SPEAKER: Only if the Speaker decides that there is a *prima facie* case . . .

SRI M. KALYANASUNDARAM: Both of us can make a request that the matter may be referred to the Committee of Privileges. The Hon. Speaker may hold the view that there is no *prima facie* case even after the Hon. the Leader of the House has agreed to it. So, I am only appealing to the Hon. the Leader of the House to join with me in requesting the Hon. Speaker to refer the matter to the Committee of Privileges.

*** SRI P. S. CHINNADURAI:** *கனம் சபாநாயகர் அவர்களே, இந்தச் சபையின் அங்கத்தினரான கனம் ஆதித்தன் அவர்கள் 12-ந் தேதி கைது செய்யப்பட்டபோது நான் ஒரு உரிமைப் பிரச்சினையைக் கொடுத்தேன். அவர்கள் கைது செய்யப்பட்ட ஷரத்தைப்பற்றியோ அல்லது காரணங்களைப்பற்றியோ நான் இந்த உரிமைப் பிரச்சினையில் எதையும் எடுத்துக்கூற விரும்பவில்லை. அவர்கள் கைது செய்யப்பட்டு மதுரையில் காவலில் வைக்கப்பட்டார்கள். அதற்குப் பதிலாக அவர் சென்னையில் காவலில் வைக்கப்பட்டிருந்தால், 13-ந் தேதி சட்டசபைக்கு அவர், போலீஸ் பாதுகாப்போடுகூட, வர அனுமதிக்கப்பட்டிருந்திருக்கலாம் என்பது என்னுடைய கருத்தாக இருந்தது. அவ்வாறு செய்யப்பட்டிருந்தால், அதன் மூலம் சாத்தாங்குளம் தொகுதி மக்களுடைய அபிலாஷைகள் நிறைவேற்றப்பட்டிருக்கக்கூடும். அவர் சபைக்கு வருவது தடைப்படுத்தப்பட்டது என்ற குறைபாட்டுக்கு இடம் இல்லாமல் இருக்குமே என்பதற்காக உரிமைப் பிரச்சினை கொடுத்தேன். எதற்கும் இப்பொழுது அவர்கள் விடுதலை செய்யப்பட்டுவிட்டபடியால் நான் அந்த உரிமைப் பிரச்சினையை வலியுறுத்த விரும்பவில்லை என்று கனம் சபாநாயகருக்குப் பணிவோடு தெரிவித்துக்கொள்ளுகின்றேன்.*

*** SRI S. PAKKIRISAMI PILLAI:** *தலைவர் அவர்களே, சட்டசபை அங்கத்தினர்கள், அதிலும் முக்கியமாகத் தலைவர்கள், அரசியல் காரணத்திற்காக ஒரு போலீஸ் சட்டத்தை உபயோகப் படுத்தி, ஒரு கெட்ட எண்ணத்துடன் . . . .*

THE HON. SRI C. SUBRAMANIAM: Sir, the hon. Member is going beyond what the hon. Member, Sri M. Kalyanasundaram, has stated. Even he did not impute any motive to the arrest. I do not think the hon. Member is entitled to refer to such things.

MR. SPEAKER: *நான் சொல்வதைக் கேட்கவில்லை என்று நினைக்கிறேன்.* I stated in the beginning that the discussion should be limited to the point, whether section 151 does or does not come under the preventive arrest for which no privilege is attached. I am not interested in hearing the validity of section 151 or its

merits, as that is beyond my scope. Therefore, let the hon. Member confine himself to the point, whether this is or this is not a preventive arrest.

Sri S. PAKKIRISAMI PILLAI : *சாதாரணமாக அரசியல் காரணத்திற்காக ப்ரிவென்டிவ் டிடென்ஷன் ஆக்டின் கீழ் அரெஸ்ட் செய்து அவர்களைத் தனியாக வைப்பது வழக்கம். அரசாங்க நடவடிக்கைக்கு விரோதமாகச் செய்ய முற்பட்டால் அப்பொழுது அம்மாதிரி செய்வது வழக்கம். நம் நாட்டிலே அதைப்பற்றி எங்கும் கண்டனக் குரல் எழுப்பினபோது . . . .*

Mr. SPEAKER : *நான் திரும்பத் திரும்பச் சொல்லியும் நீங்கள் 151-வது செக்ஷனின் 'மெரிட்'-டைப்பற்றிப் பேசுகிறீர்கள். 'அதைப் பொதுமக்கள் வரவேற்கவில்லை' என்பதைப் பற்றிப் பேசுகிறீர்கள். அந்தப் பிரச்னை இப்பொழுது கிடையாது. க்ரிமினல் ப்ரொசிஜர் கோடின் 151-வது செக்ஷன்படி இது ப்ரிவென்டிவ் டிடென்ஷனுகை வருகிறதா இல்லையா என்பதுதான் இந்த உரிமைப் பிரச்னை. இதைப்பற்றிச் சொல்லுங்கள். அதைத் தவிர வேறு பிரசங்கம் பண்ண முடியாது. இவ்வளவு நிபந்தனைக்கு உட்பட்டு பேச முடியாதென்றால் பேசவேண்டுமென்று நான் சொல்லவில்லை. பேசவேண்டுமானால் இந்த நிபந்தனைக்குட்பட்டுத் தான் பேசவேண்டும்.*

Sri S. PAKKIRISAMI PILLAI : *151-வது செக்ஷனை நம்முடைய சென்னையில்தான் பிரயோகித்திருக்கிறார்கள் என்று நினைக்கிறேன். காட்டன் சூதாட்டம் பிரபலமாக இருந்தபோது அந்தச் சூதாட்ட முதலாளிகளை அரெஸ்ட் செய்ய வகை இல்லாத போது, இந்த செக்ஷனை உபயோகப்படுத்தி, ...*

Mr. SPEAKER : *கனம் அங்கத்தினர் மன்னிக்கவேண்டும். 151-வது செக்ஷன் எதற்காக வைக்கப்பட்டது என்ற அந்தப் பிரச்னைகூட இதிலே சேரவில்லை. அந்த செக்ஷன்படி ஒரு அங்கத்தினரை அரெஸ்ட் செய்தால் அதைப்பற்றித்தான் சொல்ல வேண்டும். தாங்கள் குறிப்பிடுகிற பிரச்னை இதிலே வரவில்லை.*

Sri S. PAKKIRISAMI PILLAI : *சாதாரண ஆட்களை அந்த செக்ஷனைக் கொண்டு, பிடித்து வைத்தாலும், போலீஸ் அதிகாரிகள் அதே செக்ஷனை உபயோகப்படுத்தி நம்முடைய அசெம்பிளி மெம்பர்களைப் பிடித்தது தப்பு; 151-வது செக்ஷன் கீழ் பிடிக்கக்கூடாது; வேறு ஏதாவது சட்டத்தைப் பிரயோகித்துப் பிடிக்கவேண்டும். ஆகவே, இதை ப்ரிவிலெஜ் கமிட்டிக்கு அனுப்பவேண்டுமென்பது என் கருத்து.*

Sri V. K. RAMASWAMY MUDALIYAR : **Mr. Speaker,** Sir, I do not want to speak at great length. The Hon. Speaker has given his opinion and I have also heard what the **hon.** Member, Sri Kalyanasundaram, has stated. He has quoted certain **authorities** in favour of his argument. I find that this **matter**

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is not free from doubt. Therefore, there is no harm in referring this matter to the Committee of Privileges which will go into the whole question and decide it.

THE HON. SRI C. SUBRAMANIAM : Mr. Speaker, Sir, as you put it, Sir, we are concerned with the nature of action taken under section 151 of the Criminal Procedure Code. The first point to be noted is that section 151 is a provision made in the Code of Criminal Procedure relating to criminal matters. Secondly, this is dealt with in Chapter XIII—Preventive Action of the Police and Sections 149, 150, 151, 152 and 153 relate to the action to be taken by the police for the purpose of preventing certain breaches of law. Therefore, if we read section 151, this is what it states :—

'A police officer knowing of a design to commit any cognisable offence may arrest, without orders from a Magistrate and without a warrant, the person so designing, if it appears to such officer that the commission of the offence cannot be otherwise prevented.'

The hon. Member claiming the privilege himself conceded that it is not a civil arrest. This is not any arrest initiated by any individual for his own grievance even. But even an individual grievance could become a public grievance if it is a cognisable offence and if the police could take notice of it but here it is not for the purpose of vindicating any individual grievance or violation of any of the rights of the individual, that this action has been taken. Here on the information received that there is a design to commit any cognisable offence, any person can be arrested. Now I would put this question to the hon. Member, whether any other member of the public can be arrested under this section or not? If the police officer comes to know that there is a design to commit a cognisable offence and if any member of the public can be arrested, I respectfully submit that even Members of the Legislature cannot claim a special privilege that they should have a special law to be dealt with particularly when they come under that section. That is the specific ruling given in the Lok Sabha in the Deshpande case. "The fundamental principle is that all citizens including Members of Parliament (and that includes members of all State Legislatures in India) have to be treated equally in the eyes of law. Unless so specified in the Constitution or in any law, a Member of Parliament cannot claim any higher privileges than those enjoyed by any ordinary citizen in the matter of the application of the laws "—This is the ruling of the Speaker of the Lok Sabha in "The Deshpande Case".

The hon. Member, Sri S. Pakkirisami Pillai, was advancing an argument that section 151, Criminal Procedure Code, dealt with criminals and that members of Legislature should not be arrested under that section. Anybody who attempts to create an offence comes under section 151, Criminal Procedure Code. Hon.

Members cannot claim that we should have a separate law to deal with Members of Legislature. Unfortunately or fortunately equality of persons before law is guaranteed under the Constitution; even though a person may be a Member of Parliament or a Minister, he cannot claim a better privilege than an ordinary citizen. If under section 151, Criminal Procedure Code, a member of the public could be dealt with and he could be arrested and that could not be questioned by him, certainly an hon. Member of the Legislature cannot plead that he should not be arrested under the same Act (Criminal Procedure Code), but only by some other Act, viz., Preventive Detention Act. It is for the Executive, when there are alternative laws applicable to deal with the matter, to decide the particular law applicable to deal with these cases. Therefore, that is the first point. This is a matter relating eminently to a criminal purpose. It is for the purpose of a criminal offence that this arrest has been made.

Then the hon. Member wanted to point out that he has not designed to commit any cognisable offence. As a matter of fact there might have been no design on his part to commit any cognisable offence. He mentioned that he was concerned with the preparation for this Assembly session. I do agree and I take his word that he was also preparing for the Assembly session. But certainly he was doing other acts also. What those other acts are, the police had information. I am glad the hon. Member did not mention about it. He did not deny it. He has addressed a series of meetings inciting people to go on strike (that information the poilce had) to support the strike . . . .

SRI M. KALYANASUNDARAM: The subject-matter of my speech is before the Court. The matter is *sub-judice*.

THE HON. SRI C. SUBRAMANIAM: I am saying that the police had information. That information may be wrong. The hon. Member may prove in a Court of Law that it is wrong. The information has been received by the police that he has been addressing a series of public meetings inciting employees to go on strike. If that information is wrong, the hon. Member is entitled to prove that it is wrong in Court. As a matter of fact if he did not speak at all, if he did not commit any offence, it is for him to prove that in a Court of Law. It is for him to prove in Court that he had actually committed no offence. If the hon. Member fees that he was not committing any offence, it is for him to satisfy his conscience. I am not going to contend that he is making a statement which is not correct. That is quite a different thing. The police after receiving information were entitled to act under Section 151, Criminal Procedure Code. If as a matter of fact anything has been done which is not provided for in law, it is for the Court of Law to find out whether the law has been applied properly and whether there has been any miscarriage of law.

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We are now concerned with the question whether the arrest or the hon. Member Sri M. Kalyanasundaram under section 151, Criminal Procedure Code is a matter of privilege. The hon. Member, Sri Pakkirisami Pillai, attempted to read it as misuse of section 151, Criminal Procedure Code. Of course Sri M. Kalyanasundaram did not argue from that point of view. I respectfully submit that section 151, Criminal Procedure Code is a statutory provision giving power to executive authority to make preventive arrest. In the Deshpande case the Privileges Committee of the Lok Sabha came specifically to the conclusion that in a matter where preventive arrest under statutory authority by executive order is made, no breach of privilege is involved. Here is the statutory authority under which the Executive has taken action in a Criminal matter provided for in the Criminal Procedure Code and relating to commission of an offence, for the prevention of which the Executive is clothed with the authority to prevent the commission of an offence and to make an arrest. I respectfully submit hon. Members cannot claim any extraordinary privilege than the one available to common people with regard to preventive arrest. There is no question of any *prima facie* case. There is no doubt in the matter. I has been completely concluded in the House of Commons that once the matter was not related to a civil offence then it should be taken out of the purview of the privileges of the House. So, I submit there is no case for the matter to go before the Committee of Privileges.

Mr. SPEAKER : I must thank the Hon. Leader of the House for his clarification of Section 151 and its relationship to privilege of hon. Members of this House. Also I must thank the Hon. Member Sri V. K. Ramaswamy Mudaliyar for his view that this is a matter where there is some doubt and as such it may be referred to the Committee of Privileges. I know that Sri P. S. Chinnadurai is withdrawing the matter of privilege he had raised. I am sorry that I had to intervene when the hon. Member Sri Pakkirisami Pillai spoke, because I felt that his interpretation was going beyond the scope of what I want. I hope he will pardon me if I did not permit him to continue. I am glad to find that the hon. Member Sri Kalyanasundaram possesses so much knowledge of criminal law. He said at one stage of his speech that he was not a lawyer. I am not a lawyer by myself. I may say that even without being a lawyer he argued his case very well. I hope without being a lawyer myself, I can give my decision very well.

The only point is this. With regard to the appeal of the hon. Member Sri V. K. Ramaswamy Mudaliyar and the hon. Member Sri M. Kalyanasundaram, I must say that first I have to decide whether it is beyond doubt whether this is a matter of privilege or not? If it is beyond doubt and I am completely satisfied that there is no *prima facie* case then the question of referring to the Committee of Privileges does not arise. Only when I am in doubt and when I hold that there is a *prima facie* case, then the matter could be referred to the Committee of Privileges. The hon.

Member Sri M. Kalyanasundaram is wrong if he were to think that I am going to decide that there is a *prima facie case*. I am at present having an absolutely open mind. I have no views on the matter now. I have not come to any conclusion at present. I think hon. Members will give me credit for that. I will approach this question in an impartial manner and give my decision.

THE HON. SRI C. SUBRAMANIAM : The hon. Member might have made some impression on you, Sir.

MR. SPEAKER : Even if that be so, I am not supposed to exhibit that. I shall give my decision in a day or two.

III.—POINT OF INFORMATION *re* CALLING ATTENTION TO CLOSURE OF PALAI CENTRAL BANK.

SRI T. T. DANIEL : I would like to say that yesterday I gave notice under Rule 41 drawing the attention of Government to the recent closure of the Palai Central Bank and consequent disturbance of depositors. You, Mr. Speaker, Sir, has disallowed that notice on the ground that it is a subject concerning "banking" which is not within the scope of the State Legislature . . . .

MR. SPEAKER : Are you going to question that?

SRI T. T. DANIEL : I am not questioning that. I want to raise a point whether this State Legislature has not got the power to request the State Government to approach the Central Government to evolve a formula to protect the interest of depositors especially in view of the fact that the branches of the Palai Central Bank are not confined.

MR. SPEAKER : The hon. Member is trying to say something on a point which I have disallowed. I think I gave the reason to the hon. Member in my chamber why I am disallowing that. I think I told the hon. Member that this question cannot be debated in this House. Palai Central Bank is in another State. Banking is a subject coming within the purview of the Central Government. We cannot have a debate on that here in this House. When I have disallowed the motion, the hon. Member cannot raise it in the House and have a debate on it. I am sorry I can't allow the hon. Member to talk on that subject.

We shall now take up Government Bills.

IV.—GOVERNMENT BILL.

(1) THE MADRAS STATE AID TO INDUSTRIES (AMENDMENT) BILL, 1960

THE HON. SRI R. VENKATARAMAN : Sir, I beg leave to introduced the Madras State Aid to Industries (Amendment) Bill, 1960.